

REVENUE DEPARTMENT[701]

Notice of Intended Action

Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”

Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.

Pursuant to the authority of Iowa Code section 421.14, the Department of Revenue hereby gives Notice of Intended Action to amend Chapter 27, “Automobile Rental Excise Tax,” and Chapter 78, “Replacement Tax and Statewide Property Tax on Rate-Regulated Water Utilities,” Iowa Administrative Code.

This rule making is part of the Department’s review of rules that takes place every five years. The amendments make nonsubstantive changes and update Iowa Code references.

Any interested person may make written suggestions or comments on these proposed amendments on or before June 28, 2016. Such written comments should be directed to the Policy Section, Policy and Communications Division, Department of Revenue, Hoover State Office Building, P.O. Box 10457, Des Moines, Iowa 50306. Persons who want to convey their views orally should contact the Policy Section, Policy and Communications Division, Department of Revenue, at (515)281-8450 or at the Department of Revenue offices on the fourth floor of the Hoover State Office Building.

Requests for a public hearing must be received by June 28, 2016.

After analysis and review of this rule making, the Department finds no fiscal impact.

Any person who believes that the application of the discretionary provisions of these amendments would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any.

After analysis and review of this rule making, no adverse impact on jobs has been found.

These amendments are intended to implement Iowa Code sections 423C.1 to 423C.5 and 437B.1 to 437B.21.

The following amendments are proposed.

ITEM 1. Amend **701—Chapter 27** as follows:

CHAPTER 27

AUTOMOBILE RENTAL EXCISE TAX

701—27.1(422,422C,423 423C) Definitions and characterizations. For the purposes of this chapter, the following definitions and characterizations of words apply.

“*Automobile*” means a motor vehicle subject to registration in any state and designed primarily for carrying nine or fewer passengers. Excluded from the meaning of the term “automobile” are delivery trucks designed primarily to carry cargo rather than passengers and motorcycles and motorized bicycles.

“*Lessor*” is a person engaged in the business of renting automobiles to users. Included within the meaning of the term “lessor” are motor vehicle dealers licensed under Iowa Code chapter 322 to sell new and used automobiles who also rent automobiles to users. A person need not be engaged in a profit-making enterprise to be in the business of renting automobiles.

“*Rental*” is a transfer of possession or right of possession to an automobile to a user for a valuable consideration for a period of 60 days or less.

“*Rental price*” means the total amount of consideration valued in money for renting an automobile.

“*User*” is any person to whom possession or right of possession of an automobile is transferred for a valuable consideration for a period of 60 or fewer days or less.

701—27.2(~~422,422C,423~~ 423C) Tax imposed upon rental of automobiles. On and after July 1, 1992, a A tax at the rate of 5 percent is imposed on the rental price of any automobile if the rental transaction is taxed under Iowa sales or Iowa use tax law. The tax imposed is in addition to the Iowa state sales or use tax.

See rule 701—26.68(422) for a description of automobile rentals which are subject to Iowa sales tax and rule 701—33.8(423) for a description of automobile rentals which are subject to Iowa use tax. These rules should be used with care since they involve vehicles other than an “automobile” as that word is defined for the purpose of this chapter. For instance, rule 701—26.68(422) is concerned with boats and recreational vehicles as well as automobiles and other vehicles subject to registration. Summarizing the essential content of those rules regarding automobiles:

27.2(1) and 27.2(2) No change.

701—27.3(~~422,422C,423~~ 423C) Lessor’s obligation to collect tax. The lessor shall collect this automobile rental excise tax from the user or from any other person paying the rental price for an automobile. The lessor shall collect the tax by adding the tax to the rental price of the automobile. When collected, the tax shall be stated on any billing or invoice as a distinct item separate and apart from the rental price of the automobile and separate and apart from any state or local option sales or service tax or any state use tax.

701—27.4(~~422,422C,423~~ 423C) Administration of tax. The excise tax on automobile rental is levied in addition to the state sales and use taxes imposed by Iowa Code ~~chapters 422 and~~ chapter 423. The director of revenue is required to administer this excise tax on motor vehicle rental as nearly as possible in the fashion in which the state sales tax is administered. However, as an exception to this requirement, the director is to require only the filing of quarterly reports for motor vehicle excise tax. Quarterly, the correct amount of tax collected and due shall accompany the tax form prescribed by the department. No permit, other than an Iowa sales or use tax permit, will be required to collect the tax imposed under this chapter. However, the director may require all persons responsible for collecting and remitting motor vehicle rental excise tax to register with the department. For other aspects concerning the details of administering the tax imposed under this chapter, see 701—Chapters 10, 11, 12, 13 and 14.

These rules are intended to implement Iowa Code ~~chapters 422C and 423~~ chapter 423C.

ITEM 2. Amend **701—Chapter 78** as follows:

CHAPTER 78
REPLACEMENT TAX AND STATEWIDE PROPERTY
TAX ON RATE-REGULATED WATER UTILITIES

REPLACEMENT TAX

701—78.1(~~85GA,SF451~~ 437B) Who must file return. Beginning with property tax years and replacement tax years beginning on or after January 1, 2013, each taxpayer, as defined in ~~2013 Iowa Acts, Senate File 451, section 11(13)~~ Iowa Code section 437B.2, shall file a true and accurate return with the director. The return shall include all of the information prescribed in ~~2013 Iowa Acts, Senate File 451, section 13(1) “a” and “b,”~~ Iowa Code sections 437B.4(1) “a” and “b” and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity subject to the replacement tax during the tax year, the return must contain a statement to that effect.

701—78.2(~~85GA,SF451~~ 437B) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

A taxpayer whose replacement tax liability before credits is \$300 or less is not required to file a return. A taxpayer should not file a replacement tax return under such circumstances.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after the due date for filing. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.3(85GA, SF451 437B) Form for filing. Returns must be made by taxpayers on forms supplied by the department. Taxpayers not supplied with the proper forms shall make application for proper forms to the department in ample time to have the taxpayers' returns made, verified and filed on or before the due date. Each taxpayer shall carefully prepare the taxpayer's return so as to fully and clearly set forth the data required. All information shall be supplied and each direction complied with in the same manner as if the forms were embodied in these rules.

Failure to receive the proper forms does not relieve the taxpayer from the obligation of making the replacement tax return.

Returns received which are not completed, but merely state "see schedule attached," "no tax due," or some other conclusionary statement are not considered to be properly filed returns and may be returned to the taxpayer for proper completion. This may result in the imposition of penalties and interest due to the return's being filed after the due date.

701—78.4(85GA, SF451 437B) Payment of tax. Payment of tax shall not accompany the filing of the replacement tax return with the director. Payment of tax shall not be made to the director or the state of Iowa. Payment of the proper amount of tax due shall be made to the appropriate county treasurer upon notification by the county treasurer to the taxpayer of the taxpayer's replacement tax obligation.

701—78.5(85GA, SF451 437B) Statute of limitations.

78.5(1) to 78.5(4) No change.

701—78.6(85GA, SF451 437B) Billings.

78.6(1) No change.

78.6(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the taxpayer does not pay the amount determined to be correct to the appropriate county treasurer, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer with a copy sent to the appropriate county treasurer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A)₂ or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the appropriate county treasurer and file a refund claim with the director within the applicable period provided in ~~2013 Iowa Acts, Senate File 451, section 19(1) "b,"~~ Iowa Code section 437B.10(1) "b" for filing such claims.

78.6(3) No change.

701—78.7(85GA, SF451 437B) Refunds.

78.7(1) No change.

78.7(2) A taxpayer shall not offset a refund or overpayment of tax for one tax year as a prior payment of tax of a subsequent tax year on the tax return of a subsequent year unless the provisions of ~~2013 Iowa Acts, Senate File 451, section 13(5),~~ Iowa Code section 437B.4(5) are applicable.

78.7(3) to 78.7(7) No change.

701—78.8(85GA,SF451 437B) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to replacement tax. In the event that the taxpayer files a request for abatement with the director, the appropriate county treasurer shall be notified. The director's decision on the abatement request shall be sent to the taxpayer and the appropriate county treasurer.

701—78.9(85GA,SF451 437B) Taxpayers required to keep records.

78.9(1) Records required by taxpayers taxed under ~~2013 Iowa Acts, Senate File 451, sections 10 to 30~~ Iowa Code chapter 437B. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. Records associated with the total number of gallons of water carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of water carried through the taxpayer's distribution system is calculated as though ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B was in effect for such calendar year.

b. Records associated with the total amount of nonrevenue water, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(9)~~ Iowa Code section 437B.2(9), carried through the taxpayer's distribution system during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total number of gallons of nonrevenue water carried through the taxpayer's distribution system is calculated as though ~~2013 Iowa Acts, Senate File 451, sections 10 to 30,~~ Iowa Code chapter 437B was in effect for such calendar year.

c. Records associated with the total taxable gallons of water delivered by the taxpayer to consumers, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(2)~~ Iowa Code section 437B.2(2), within the service area during the tax year and during each of the immediately preceding five calendar years. For calendar years prior to tax year 2013, the total taxable gallons delivered by the taxpayer to consumers by the water utility is the difference between the gallons of water calculated in paragraphs 78.9(1) "a" and "b."

d. For tax years 2013, 2014, and 2015, records associated with property tax amounts due and payable as the result of assessment years 2010 and 2011.

e. Records associated with the taxpayer's calculation of the tentative replacement taxes due for the tax year and required to be shown on the tax return.

f. Records associated with increases or decreases in the tentative replacement tax required to be shown to be due where the replacement delivery tax rates are subject to recalculation under the provisions of ~~2013 Iowa Acts, Senate File 451, section 13(5)~~ Iowa Code section 437B.4(5).

g. All work papers associated with any of the records described in this subrule.

h. Records pertaining to any additions or deletions of property described as exempt from local property tax in ~~2013 Iowa Acts, Senate File 451, section 24~~ Iowa Code section 437B.12.

i. Records associated with allocation of property described in paragraph 78.9(1) "h" above among local taxing districts.

78.9(2) No change.

701—78.10(85GA,SF451 437B) Credentials. Employees of the department have official credentials, and the taxpayer should require proof of the identity of persons claiming to represent the department. No charges shall be made nor gratuities of any kind accepted by an employee of the department for assistance given in or out of the office of the department.

701—78.11(85GA,SF451 437B) Audit of records. The director or the director's authorized representative shall have the right to examine or cause to be examined the books, papers, records, memoranda or documents of a taxpayer for the purpose of verifying the correctness of a tax return filed or of information presented or for estimating the tax liability of a taxpayer. When a taxpayer fails or refuses to produce the records for examination upon request, the director shall have authority to require,

by a subpoena, the attendance of the taxpayer and any other witness(es) whom the director deems necessary or expedient to examine and compel the taxpayer and witness(es) to produce books, papers, records, memoranda or documents relating in any manner to the replacement tax.

701—78.12(85GA, SF451 437B) Information confidential. ~~2013 Iowa Acts, Senate File 451, sections 19(2) and 19(3);~~ Iowa Code sections 437B.10(2) and 437B.10(3) apply generally to the director, deputies, auditors, and present or former officers and employees of the department. Disclosure of the gallons of water delivered by a taxpayer taxed under ~~2013 Iowa Acts, Senate File 451, sections 10 to 30;~~ Iowa Code chapter 437B in a service area disclosed on a tax return, return information, or investigative or audit information is prohibited. Other persons having acquired this confidential information will be bound by the same rules of secrecy under these Iowa Code provisions as any member of the department and will be subject to the same penalties for violations as provided by law.

STATEWIDE PROPERTY TAX

701—78.13(85GA, SF451 437B) Who must file return. Each taxpayer shall file a true and accurate return with the director. The return shall include all of the information prescribed in ~~2013 Iowa Acts, Senate File 451, section 26;~~ Iowa Code section 437B.17 and any other information or schedules requested by the director. The return shall be signed by an officer or other person duly authorized by the taxpayer and must be certified as correct. If the taxpayer was inactive or ceased the conduct of any activity for which the taxpayer's property was subject to the statewide property tax during the tax year, the return must contain a statement to that effect.

701—78.14(85GA, SF451 437B) Time and place for filing return. The return must be filed with the director on or before March 31 following the tax year. There is no authority for the director to grant an extension of time to file a return. Therefore, any return which is not filed on or before March 31 following the tax year is untimely.

When the due date falls on a Saturday or Sunday, the return will be due the first business day following the Saturday or Sunday. If a return is placed in the mails, properly addressed and postage paid in ample time to reach the director or the department on or before the due date for filing, no penalty will attach should the return not be received until after that date. The functional meaning of this requirement is that if the return is placed in the mails, properly addressed and postage paid, on or before the due date for filing, no penalty will attach. Mailed returns should be addressed to Department of Revenue, Attention: Property Tax Division, Hoover State Office Building, Des Moines, Iowa 50319.

701—78.15(85GA, SF451 437B) Form for filing. Rule 701—78.3(85GA, SF451 437B) is incorporated herein by reference.

701—78.16(85GA, SF451 437B) Payment of tax. Payment of the tax required to be shown due on the statewide property tax return shall accompany the filing of the return. All checks shall be made payable to Treasurer, State of Iowa. Failure to pay the tax required to be shown due on the tax return by the due date shall render the tax delinquent.

701—78.17(85GA, SF451 437B) Statute of limitations. Rule 701—78.5(85GA, SF451 437B) is incorporated herein by reference.

701—78.18(85GA, SF451 437B) Billings.

78.18(1) Notice of adjustments. Subrule 78.6(1) is incorporated herein by reference.

78.18(2) Notice of assessment. If, after following the procedure outlined in paragraph 78.6(1) "b," no agreement is reached and the person does not pay the amount determined to be correct to the director, a notice of the amount of tax due shall be sent to the taxpayer. This notice of assessment shall bear the signature of the director and will be sent by ordinary mail to the taxpayer.

A taxpayer has 60 days from the date of the notice of assessment to file a protest according to the provisions of rule 701—7.8(17A), or, if the taxpayer fails to timely appeal a notice of assessment, the taxpayer may make payment pursuant to rule 701—7.8(17A) to the director and file a refund claim with the director within the applicable period provided in ~~2013 Iowa Acts, Senate File 451, sections 19 and 27,~~ Iowa Code sections 437B.10 and 437B.18 for filing such claims.

78.18(3) *Supplemental assessments.* Subrule 78.6(3) is incorporated herein by reference.

701—78.19(~~85GA,SF451~~ 437B) Refunds. Subrules 78.7(1) to 78.7(3), 78.7(5) and 78.7(7) are incorporated herein by reference.

No credit or refund of taxes alleged to be unconstitutional shall be allowed if such taxes were not paid under written protest which specifies the particulars of the alleged unconstitutionality.

701—78.20(~~85GA,SF451~~ 437B) Abatement of tax. The provisions of rule 701—7.31(421) are applicable to the statewide property tax.

701—78.21(~~85GA,SF451~~ 437B) Taxpayers required to keep records.

78.21(1) Records required. The records required in this rule must be made available for examination upon request by the director or the director's authorized representative. The records must include all of those which would support the entries required to be made on the tax return. These records include but are not limited to:

a. to d. No change.

e. Records associated with the transfer or disposal of all operating property, as that term is defined in ~~2013 Iowa Acts, Senate File 451, section 11(10)~~ Iowa Code section 437B.2(10), in the preceding calendar year, by local taxing district.

f. to i. No change.

78.21(2) No change.

701—78.22(~~85GA,SF451~~ 437B) Credentials. Rule 701—78.10(~~85GA,SF451~~ 437B) is incorporated herein by reference.

701—78.23(~~85GA,SF451~~ 437B) Audit of records. Rule 701—78.11(~~85GA,SF451~~ 437B) is incorporated herein by reference.

These rules are intended to implement ~~2013 Iowa Acts, Senate File 451~~ Iowa Code chapter 437B.